

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEMORANDUM ENDORSED

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Wendy Bienvenida Silverio De Tavarez, : Civil No. 1:20-cv-10627-GWG
: :
: Plaintiff, : Motion for Attorney's Fees
: v. : Pursuant to the Equal Access to Justice Act
: : 28 U.S.C. §2412
: :
: Commissioner of Social Security, :
: Defendant. :
-----x

COUNSEL:

PLEASE TAKE NOTICE that upon the annexed affidavit of Daniel Berger, attorney for the plaintiff, and the other papers, the plaintiff makes a motion before this Court, for an order:

1. Awarding attorney's fees plus costs in the sum of \$8,612.90 pursuant to the Equal Access to Justice Act; and
2. Granting such other and further relief as may be deemed just and proper.

Plaintiff, by and through her attorney, Daniel Berger, hereby moves the court to award attorney's fees to be paid by the defendant pursuant to the Equal Access to Justice Act, 28, USC §2412. Plaintiff asks for an award of attorney's fees in the amount of \$8,612.90 to be paid to plaintiff's attorney calculated at the rate of \$219.00 per hour for 39.1 hours of work performed by Daniel Berger and paralegal fees to be calculated at the rate of \$100.00 per hour for 0.5 hours of work performed on this case in Federal Court.

Plaintiff is entitled to receive attorney's fees pursuant to the Equal Access to Justice Act because she is the prevailing party in this action, is an individual whose net worth did not exceed two million dollars at the time the action was filed as is demonstrated by plaintiff's affidavit and attached signed IFP application and the position of the United States in this litigation and at the agency was not substantially justified. Although the burden of proof on the issue of substantial justification is on the government, plaintiff's supporting memorandum briefly addresses this issue.

There are no special circumstances in this case which make an award under the EAJA unjust.

This motion is supported by affidavit of plaintiff, affidavit of plaintiff's attorney, memorandum, federal court retainer signed by plaintiff, and plaintiff's signed IFP application.

Dated at Bronx, NY this April 28, 2022

Respectfully submitted,



Daniel Berger

Attorney for Plaintiff

Law Office of Daniel Berger

1000 Grand Concourse, Suite 1A

Bronx, NY 10451

No opposition having been filed to this motion, the Court hereby orders that Daniel Berger is awarded \$8,612.90 pursuant to the Equal Access to Justice Act, 28 U.S.C. sec 2412.

So Ordered.



GABRIEL W. CORENSTEIN
United States Magistrate Judge

May 27, 2022